

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Monday, February 2, 2004

Division Two

**A105195 -- Zemed Alemu et al. v. Union Pacific Railroad Company.**

By the Court: Appellants Zemed Alemu and Amarech Legesse purport to appeal from the trial court's November 6, 2003 order granting respondent's motion for summary judgment. An order granting a motion for summary judgment is not appealable. Rather, an appeal may be taken only after the trial court has entered a judgment in the matter. (See *Stolz v. Wong Communications Limited Partnership* (1994) 25 Cal.App.4th 1811, 1816.) Accordingly, the above-referenced appeal is dismissed as premature. Kline, P.J.

**A103999 -- In re Ashley F., a Person Coming Under the Juvenile Court Law. The People v. Ashley F.**

By the Court: Appellant having failed to file a brief after notice given under rule 17(a)(1) of the California Rules of Court, the appeal is dismissed. Kline, P.J.

**A104044 -- Ginbneh Tessema Ayele v. Kaiser Foundation Health Plan, Inc., et al.**

By the Court: Since the court's January 6, 2004 opinion does not meet the standard for publication as set forth in rule 976(b) of the California Rules of Court, the request for publication is denied. Pursuant to rule 978(a) of the California Rules of Court, the Clerk is directed to forward to the Clerk of the Supreme Court the request for publication, the opinion, and a copy of this order. Kline, P.J.

**A104044 -- Ginbneh Tessema Ayele v. Kaiser Foundation Health Plan, Inc., et al.**

By the Court: The petition for rehearing is denied. Kline, P.J.

Monday, February 2, 2004 (continued)

**A100709 -- Estate of Hodge Wilson, Sr., Deceased.**

The judgment appealed from is affirmed. Clinton's request for sanctions for the filing of a frivolous appeal is denied, but he, as respondent, is awarded his costs on appeal. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Tuesday, February 3, 2004

Division One

**A101608 -- The People v. Raynard Murray.**

The judgment is affirmed. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

Division Two

**A096451 -- Stephen J. Barrett et al. v. Ilena Rosenthal.**

The Court: Order Modifying Opinion. It is ordered that the opinion filed herein on January 21, 2004 after rehearing was granted, be modified as follows: (See order.) There is no change in the judgment. Kline, P.J. (Certified for Partial Publication.)

**A101749 -- The People v. Ervin Putnam.**

The order extending appellant's MDO commitment until February 8, 2004, is affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Certified for Publication.)

Division Five

**A099879 -- The People v. Antwion Edward Thompson.**

The judgment is affirmed. Gemello, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

## MINUTES

### CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION ONE

Wednesday, February 4, 2004

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, P.J., Stein, J., Swager, J., and F. Abad, Deputy Clerk.

A103276 Harry J. Williby,  
v.

Suvimol Kuanchaum, et al.

Cause called and argued by Harry Williby, appellant in pro per via teleconferencing, and Daniel Presher, counsel for respondents. Cause ordered submitted.

At this point in the proceedings, Justice Swager left the bench and Justice Margulies joined the bench.

A101614 In re Aaron Escalera on Habeas Corpus.

Cause called and argued by Anya Binsacca, counsel for appellant, and George Mavris, counsel for respondent. Cause ordered submitted.

A102715 Ron Norton,  
v.

Collectronics, Inc. et al.

Cause called and argued by Phillip Cooke, counsel for appellant, and Douglas Provencher, counsel for respondents. Cause ordered submitted.

A097932 Delta V-A, Ltd., et al.,  
v.

State of California, et al.

Cause called and argued by Philip Stillman, counsel for appellants, and Marc Melnick, counsel for respondents. The Court granted last minute substitution of attorney for appellant. Respondent did not oppose the substitution. Craig Hunt was directed by the Court to file substitution of attorney with the clerk's office. Cause ordered submitted.

A099774 Yvonne W. Scott,

v.

Jing Ju Long.

Cause called and argued by John Nash, counsel for appellant, and Priscilla Slocum, counsel for respondent via teleconferencing. Cause ordered submitted.

Court recessed until 1:30 p.m.

MINUTES

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION ONE

Wednesday, February 4, 2004

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, P.J., Swager, J., Margulies, J., and B. Robbins, Deputy Clerk.

A102096 David Clark,  
v.  
The Willits Unified School District, et al.  
Cause called and argued by Scott A. Lewis, counsel for appellant, and Ryan J. Artola, counsel for respondents. Cause ordered submitted.

A101294 Jonathan Frieman, et al.,  
v.  
San Rafael Rock Quarry, Inc.  
Cause called and argued by Gil Purcell, counsel for appellants, and Derek Cole, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Presiding Justice Marchiano left the bench and Justice Stein joined the bench. Justice Stein presided over the remaining case on calendar.

A102687 Virginia McLeod,  
v.  
Rutilio Escobar.  
Cause called and argued by Milton Katz, counsel for appellant, and Robert J. Cleek, counsel for respondent. Cause ordered submitted.

Court adjourned.

No cases will be heard on Thursday, February 5, 2004.

Wednesday, February 04, 2004

Division Two

**A103328 -- California Contractor's License Services v. Anne E. Bennett, et al.**

By the Court: Appellant Anne E. Bennett having filed a request for dismissal in this court, the appeal is dismissed **only as to appellant Anne E. Bennett**. Kline, P.J.

Division Four

**A099805, A102792 -- The People v. Scott Allan Dindsdale.**

The order (Appeal No. A102792) and the underlying judgment (Appeal No. A099805) are both affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Division Five

**A103406 -- Lake County Vector Control District et al. v. Workers' Compensation Appeals Board and Jan Sanders.**

The portion of the Board's decision denying Lake County and the State Fund's petition for reconsideration is annulled, and the matter is remanded for further proceedings consistent with this decision. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

Thursday, February 05, 2004

Division Two

**A104552 -- Eileen Dorin v. Robin Slade Weitzen, et al.**

By the Court: Appellant's motion for relief from default, treated as a petition for rehearing is granted and the appeal is restored to active status in this court. Appellant shall file an application for waiver of the filing fee with this Court within 15 days from the date of this order. Failure to file said application will result in dismissal of the appeal. Kline, P.J.

**A102316 -- Estate of Arthur Patrick Ford, Deceased.**

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

**A095846 -- Yvette Munoz, et al. v. City of Union City, et al.**

By the Court: Due to the novelty and complexity of the issues presented, the court has concluded that additional time is required for full consideration of this appeal, therefore submission of the above-entitled cause is vacated and it is hereby ordered resubmitted for a period not to exceed ninety days. Kline, P.J.

Division Three

**A105179 -- Elizabeth Ann Atkinson v. The Superior Court of San Francisco County; Patrick Stack, R.P.I.**

Let a peremptory writ of mandate issue directing respondent superior court to vacate its judgment entered on December 12, 2003, in favor of real party in interest Patrick Stack and against petitioner Elizabeth Ann Atkinson, and to restore case No. CUD-03-607681 to the master trial calendar. In order to prevent frustration of the relief granted, our decision is final immediately as to this court. (Cal. Rules of Court, rule 24(b)(3).) The parties shall bear their own costs. Pollak, J. We Concur: McGuinness, P.J., Parrilli, J. (Not for Publication.)

Thursday, February 05, 2004 (Continued)

Division Four

**A102934 -- In re Marcos C., a Person Coming Under the Juvenile Court Law. Contra Costa County Children & Family Services v. Kelly J.**

The order terminating parental rights is vacated and the matter is remanded to the juvenile court with directions to order the Department to make proper inquiry and comply with the notice provisions of the ICWA. If Marcos is determined to be an Indian child, the juvenile court is ordered to conduct a new section 366.26 hearing in conformity with the ICWA. If Marcos is determined not to be an Indian child, all previous findings and orders shall be reinstated. In all other respects, the order is affirmed. Rivera, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

Friday, February 6, 2004

Division One

**A102096 -- David Clark v. Willits Unified School District et al.**

The judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

Division Two

**A090177 -- The People v. Ramon Hernandez.**

**A102598 -- In re Ramon Hernandez, on Habeas Corpus.**

The judgment of conviction is affirmed. The petition for writ of habeas corpus is denied. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

**A099413 -- Douglas Irwin v. Grateful Dead Productions, Inc., et al.**

The judgment is affirmed. Costs to Koons Garcia. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication.)

Division Four

**A102732 -- In re F.S., a Person Coming Under the Juvenile Court Law. Alameda County Social Services Agency v. Lisa W.**

The order is affirmed. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

Division Five

**A101089 -- The People v. Ruby Brambila.**

The judgment is affirmed. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

Friday, February 6, 2004 (continued)

**A102790 -- Grafton Partners LP, et al. v. The Superior Court of Alameda County; Price Waterhousecoopers LLP, R.P.I.**

The order to show cause is discharged. Let a peremptory writ of mandate issue directing respondent to set aside its order granting real party's motion to strike the demand for jury trial, and directing respondent to enter a new and different order denying the motion. Petitioners are awarded their costs incurred in bringing this petition. (California Rules of Court, rule 56.4, subd.(a).) Simons, J. We Concur: Jones, P.J., Gemello, J. (Certified for Publication.)

**A101384 -- Ronald F. Richardson v. James L. Barton.**

**A101385 -- Estate of Florence Barton, Deceased. Ronald F. Richardson v. James L. Barton.**

The judgment is affirmed. Pursuant to our order filed July 31, 2003, the stay of eviction imposed by writ of supersedeas is dissolved. Costs on appeal are awarded to respondent. Jones, P.J. We Concur: Stevens, J., Gemello, J. (Not for Publication.)

Monday, February 9, 2004

Division One

**A096721, A097810, A098799 -- Rose M. Bell et al. v. Farmers Insurance Exchange.**

The portion of the judgment filed September 24, 2001, based on the special verdict of \$1,210,337 for unpaid double-time hours worked by the class is reversed and the judgment is otherwise affirmed. The order re plan of distribution filed September 20, 2001, and the order approving claim forms and instructions filed April 23, 2002, are reversed and the case remanded for further proceedings consistent with this opinion. In all other respects, the postjudgment orders subject to appeal are affirmed. The parties are to bear their own costs on appeal. Swager, J. We Concur: Marchiano, P.J., Stein, J. (Certified for Publication.)

**A099497 -- The People v. Loni A. Ongolea.**

We conclude that the trial court was without jurisdiction to grant habeas relief in the form of an order directing the clerk to accept for filing the late notice of appeal, and the notice of appeal is not timely filed under rule 31(d). We therefore dismiss the appeal for lack of appellate jurisdiction. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

Division Four

**A102570 -- The People v. Aubrey W. Briggs.**

The judgment is affirmed. Sepulveda, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

Division Five

**A097749 -- The People v. James Corey McGee.**

The judgment is affirmed. Gemello, J. We Concur: Jones, P.J., Simons, J. (Certified for Partial Publication.)

Monday, February 10, 2004

Division One

**A101614 -- Aaron Escalera v. Calvin Terhune et al.**

The orders appealed from are affirmed. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

**A102765 -- Jian Hua Li v. Ernest Orlando Lawrence, et al.**

By the Court: Respondent's motion to dismiss the appeal, filed January 27, 2004, is granted and the appeal is dismissed. Marchiano, P.J.

**A102715 -- Ron Norton v. Collectronics, Inc. et al.**

The judgment in favor of respondents is reversed and the case remanded for further proceedings, consistent with the views expressed herein, on appellant's cause of action for malicious prosecution. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

**A103276 -- Harry J. Williby v. Suvimol Kuanchaum et al.**

The order of dismissal is affirmed. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

Division Two

**A101829 -- Dan Hamburg et al. v. Wal-Mart Stores, Inc., et al.**

For the foregoing reasons, the judgment of the superior court is reversed. Appellants are awarded their costs on appeal. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION FOUR  
Tuesday, February 10, 2004

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco, California. Present: Kay, P.J., Reardon, J. and Sepulveda, J.; Channing Hoo, Deputy Clerk; CHP Officer Vincent Chambers, Bailiff.

A103055      McKesson HBOC, Inc.  
                 v.  
                 Superior Court of San Francisco County  
                 Oregon Public Employees Retirement Board  
Cause called. James E. Lyon argued for petitioner McKesson. Melinda Hardy argued for amicus United States Securities Exchange Commission. Pamela S. Palmer argued for amicus Securities Industry Association. Elizabeth Cabraser argued for real party in interest. Cause submitted.

At this point, the Court reconstituted itself to include Kay, P.J., Sepulveda, J. and Rivera, J.

A102044      In re Carina L., a minor.  
                 Sonoma County Social Services Agency  
                 v.  
                 Liza L. et al.  
Cause called. Chantal M. Sampogna argued for appellant Liza L. Tara Harvey teleargued for respondent. Cause submitted.

A102301      People  
                 v.  
                 Jose Antonio Monzon  
Cause called. Robert Kane argued for appellant Monzon. Allan Yannow argued for respondent. Cause submitted.

A097943      April Chapman  
                 v.  
                 Bruce Enos  
Cause called. Timothy J. Fox argued for appellant Chapman. Bonnie A. Freeman and Gail Flatt argued for respondent. Cause submitted.

The court recessed at 11:22 a.m.



MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION FOUR

Tuesday, February 10, 2004

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Kay, P.J., Reardon, J., and Rivera, J.; Channing Hoo, Deputy Clerk; CHP Vincent Chambers, Bailiff.

A100951 Sandra J. Patterson v. Chevron U.S.A., Inc.  
A101214 Sandra J. Patterson v. Unocal Corporation  
Causes called. Kathleen Wang, who had requested oral argument, argued for appellant Patterson. Respondents did not appear. Causes submitted.

At this point the Court reconstituted itself to include Reardon, Acting P.J., Sepulveda, J., and Rivera, J.

A102764 Kathleen Silva et al.  
v.  
Foster Farms Dairy  
Cause called. Jordan Stanzler argued for appellant Dairy. Richard Reynolds and Frank L. Tridente argued for respondents. Cause submitted.

The Court adjourned at 1:58 p.m.

Tuesday, February 10, 2004, (continued)

Division Three

**A103621 -- The People v. David Lynell Robinson.**

In sum, we find no arguable issues for review pursuant to *People v. Wende, supra*, 25 Cal.3d 436. The judgment is affirmed. McGuiness, P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

Division Five

**A102469 -- The People v. Bobby Bert Thrasher, Jr.**

The judgment is modified by deleting the parole revocation fine under section 1202.45. As so modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment and to forward a certified copy to the Department of Corrections. Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

**A101940 -- In re Marcus W., a Person Coming Under the Juvenile Court Law. Contra Costa County Social Services v. Adrean W. et al.**

The orders are affirmed. Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

Wednesday, February 11, 2004

Division One

**A102372 -- In re Daniel A., a Person Coming Under the Juvenile Court Law. The People v. Daniel A.**

We agree with the decision in *In re Kacy S.*, *supra*, 68 Cal.App.4th 704, 711, in which despite the lack of evidence of the minor's prior use of alcohol or drugs, the court concluded: "The testing condition is a reasonable intrusion upon a probationer's expectations of privacy. [Citation.] The governmental interest in testing is strong. The juvenile court's goals are to protect the public and rehabilitate the minor. [Citations.] Section 729.3 serves both goals. It protects the public by establishing procedures to deter or prevent use of alcohol and unlawful drugs by minors. It advances the rehabilitation of young offenders by seeking to detect alcohol or drug use as a precursor of criminal activity in order to facilitate intervention at the earliest time. [Citations.] Although urine testing constitutes an intrusion on privacy, the effect of the intrusion is outweighed by the government's legitimate interest in closely monitoring the rehabilitation of minors who are granted probation and returned to the custody of their parents." (See also *People v. Balestra* (1999) 76 Cal.App.4th 57, 69, fn. 9 [90 Cal.Rptr.2d 77].) The drug testing condition did not violate appellant's constitutional rights. Accordingly, the judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

**A103611 -- The People v. Maureena Shanee Thompson.**

The judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

**A099184 -- Susan Walsh v. Jeffrey Fawcett et al.**

We reverse the order partially granting and denying appellants' special motions to strike the first, fifth, sixth, and seventh causes of action to the extent that it denied the motions and remand the case with instructions to grant the special motions to strike. Costs are awarded to appellants. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Wednesday, February 11, 2004 (continued)

Division Two

**A100762 -- Daniel J. Christensen v. Allstate Insurance Company.**

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J.  
(Not for Publication.)

**A100219 -- The People v. Llewellyn Phelan.**

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Ruvolo, J.  
(Not for Publication.)

Division Three

**A101512 -- Oxy Resources California LLC v. The Superior Court of Solano County; Calpine Natural Gas LP, R.P.I.**

**A101632 -- Calpine Natural Gas LP v. The Superior Court of Solano County; EOG Resources, Inc., et al., R.P.I.**

Let a peremptory writ of mandate issue directing respondent court to vacate its order of December 23, 2002, granting in part and denying in part Calpine's motion to compel. The respondent court shall consider OXY's claims of privilege and Calpine's claims of waiver in light of the principles discussed in this opinion. In particular, documents shall not be protected from disclosure solely because they concern matters of common interest and are exchanged among OXY, EOG, and their attorneys. In ruling upon a claim that documents are protected by the Joint Defense Agreement, the trial court must first establish that the documents are protected by either the attorney-client privilege or the attorney work product doctrine. The trial court must then determine that there was a reasonable expectation the communications would be maintained in confidence and that the disclosures were reasonably necessary for the purpose for which attorneys were consulted. This determination will invariably hinge on the content and context of the communication. In order to assess the claims of common interest and the necessity of disclosure, the trial court may conduct an in camera review of the disputed documents. Our temporary stay order shall remain in effect until this opinion is final. Each party shall bear its own costs in this writ proceeding. Parrilli, J. We Concur: McGuinness, P.J., Pollak, J. (Certified for Publication.)

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION THREE

Wednesday, February 11, 2004

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California.

Present: Corrigan, J., Parrilli J., Pollak, J., and C. Turner, Deputy Clerk.

A099536 Charlene Vine,  
v.  
Bear Valley Ski Company,  
Cause called and argued by Peter Koenig, counsel for appellant, and Gary Lynn Simms, counsel for respondent. Cause ordered submitted.

Justice McGuiness took his place on the bench.  
Justice Pollak left the bench.

A099550 Robert Lane,  
A099647 v.  
Rolls-Royce Engine Services-Oakland Inc., et al.,  
Cause called and argued by Robert Rusky, counsel for appellant, and Cynthia Joy Larsen, counsel for respondent. Cause ordered submitted.

Justice Parrilli left the bench.  
Justice Pollak took his place on the bench.

A100954 Maurice Smith, et al,  
v.  
City of Daly City,  
Cause called and argued by Paul Josephy Smoot, counsel for appellant, and Glenn David Martin, counsel for respondent. Cause ordered submitted.

A100947 Eduardo Manzanarez,  
v.  
Robert Low,  
Cause called and argued by James Miller, counsel for appellant, and William S. Weinberg, counsel for respondent. Cause ordered submitted.

court adjourned

Wednesday, February 11, 2004 (continued)

Division Five

**A104743 -- Chayne Edwin Irvin v. The Superior Court of Humboldt County; The People, R.P.I.**

The Court:\* Therefore, let a peremptory writ of mandate issue compelling respondent superior court to (1) vacate its decision denying the petition for writ of habeas corpus, (2) appoint counsel for petitioner, (3) thereafter allow the filing of a traverse, and (4) reconsider the merits of the habeas petition, including the question of whether an evidentiary hearing is required. In all other respects, the petition is denied. This decision shall be final as to this court within 10 days. (Cal. Rules of Court, rule 24(b)(3).) (Not for Publication.)

\*Before Stevens, Acting P.J., Simons, J., and Gemello, J.

**A098589/A100064 -- John Kockos v. James Gardner.**

The August 2, 2002 judgment supersedes the February 15, 2002 judgment and is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

Tuesday, February 17, 2004

Division Two

**A099345 -- Jack Mannie, Jr. v. Scott Norton et al.**

The judgment is affirmed. Respondents' request for sanctions is denied. Respondents shall recover costs on appeal. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

**A101567 -- Elnora Terrell v. Marian Allred.**

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

## MINUTES

### CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION TWO

Tuesday, February 17, 2004

The Court met at 9:30 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Kline, P.J., Haerle, J., Ruvolo, J. and S. Graham, Deputy Clerk.

At this point in the proceedings, Presiding Justice Kline announced that the panel for the first two cases would be himself and Justices Haerle and Ruvolo, the panel for last two cases would be Justices Haerle, Lambden and Ruvolo.

- A102039     The People  
              v.  
              Steven S., a Minor  
Cause called and argued by Steven Lubliner, counsel for appellant and Dorian Jung, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A101809     The People  
              v.  
              Monica Eray Butler  
Cause called and argued by Barry Karl, counsel for appellant and John Vance, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A098994     Brandy Stewart, etc.  
              v.  
              Ward Silk Haynes, et al.  
Cause called and argued by Eugene Schneider, counsel for appellant and Joanne Reming, counsel for respondents. Cause ordered submitted.

A098526      San Diego County Water Authority, et al.  
v.  
Metropolitan Water District of So. California, et al.  
Cause called and argued by Thomas Peterson, counsel for appellants and  
David Heilbron and Arthur Walsh, counsel for respondents. Cause ordered  
submitted.

Court recessed until 1:30 p.m.

Court reconvened at 1:30 p.m. Present: Kline, P. J., Haerle, J. Lambden, J., and I. Santos, Deputy Clerk. Presiding Justice Kline announces that the panel for the last case on calendar will consist of himself, Justice Lambden and Justice Ruvolo.

A095433     The People,  
                 v.  
                 James Ary.  
Cause called and argued by James Gee, counsel for appellant, and Joan Killeen, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A101518     In re Miles D., a Person Coming Under the Juvenile Court Law.  
                 The People,  
                 v.  
                 Miles D.  
Cause called and counsel for appellant was not present. Allen Crown, Deputy Attorney General, counsel for respondent, was present and waived argument. Cause submitted.

A100631     Victor Trinchese et al.  
                 v.  
                 Union Carbide Corporation.  
Cause called and argued by John Brydon, counsel for appellant, and Bryce Anderson, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Justice Haerle left the bench and Justice Ruvolo joined the bench.

A099120     The People,  
                 v.  
                 Elizabeth Fuentes Ortiz.  
Cause called and argued by John Jordan, counsel for appellant, and Allan Yannow, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

**COURT ADJOURNED.**

Tuesday, February 17, 2004 (continued)

Division Three

**A100447 -- In re Gabriel C., a Person Coming Under the Juvenile Court Law. Mendocino County Department of Social Services v. Loretta C.**

The appeal is ordered dismissed as moot. McGuiness, P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

**A101515 -- In re Gabriel C., a Person Coming Under the Juvenile Court Law. Mendocino County Department of Social Services v. Loretta C.**

The appeal is ordered dismissed as moot. McGuiness, P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

Division Four

**A102044 -- In re C.L., a Person Coming Under the Juvenile Court Law. Sonoma County Human Services Department v. Liza L. et al.**

The finding that Nathan F. was convicted of a felony indicating parental unfitness is stricken. The order terminating the parental rights of Liza L. and Nathan F. is affirmed in all other respects. Kay, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Division Five

**A098487, A098897 -- Terry Lathrop et al. v. Healthcare Partners Medical Group.**

By the Court: The opinion filed January 21, 2004, is ordered modified as follows: (See order.) This modification makes no change in the judgment. Appellant's petition for rehearing is denied. Jones, P.J. (Certified for Partial Publication.)

**A102158 -- The People v. Andrew Quintero.**

The judgment is affirmed. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

Wednesday, February 18, 2004

Division One

**A100041 -- The People v. Henry Camphor, Jr.**

The only other pretrial statements by defendant that were admitted at trial consisted of his inquiry while seated in the rear of the patrol vehicle about the interview of John Do, and a request to “go over to where Officer Vantree and the child were talking.” Defendant was then unquestionably in custody, so the “admissibility of these statements turns on whether they were the product of police interrogation or instead were freely volunteered.” (*People v. Mayfield, supra*, 14 Cal.4th 668, 734.) “*Miranda* rights only come into play when a suspect in custody is subjected to either express questioning or its ‘functional equivalent,’ i.e., by words or actions on the part of police that they should know are ‘reasonably likely to elicit an incriminating response.’ [Citation.]” (*People v. Mobley* (1999) 72 Cal.App.4th 761, 792; see also *People v. Mosley, supra*, 73 Cal.app.4th 1081, 1089.) Spontaneous or volunteered statements are not the product of interrogation and therefore are not violative of *Miranda*. (*People v. Ray* (1996) 13 Cal.4th 313, 337; *People v. Mickey* (1991) 54 Cal.3d 612, 648.) If the defendant “initiates a statement to police, ‘nothing in the Fifth and Fourteenth Amendments . . . prohibit[s] the police from merely listening to his voluntary, volunteered statements and using them against him at the trial.’ [Citation.]” (*People v. Bradford* (1997) 14 Cal.4th 1005, 1034.) Defendant’s voluntary statements in the patrol vehicle made in the absence of any semblance of interrogation are not violative of *Miranda*. (*People v. Brewer* (2000) 81 Cal.App.4th 442, 458-459; *People v. Mobley, supra*, at p. 792; *People v. Flores* (1992) 7 Cal.App.4th 1350, 1365.) Accordingly, the judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

**A100080 -- Gregory S. Garetson v. William F. Garetson et al.**

The appeal from the portion of the order concerning proration of taxes is dismissed without prejudice to a later appeal from a final order. The order surcharging the trustee for the three outstanding checks with interest is reversed. In all other respects, the orders appealed from and the orders that were the subject of the cross-appeal are affirmed. The parties shall bear their own costs on appeal. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

Wednesday, February 18, 2004 (continued)

Division Two

**A103337 -- In re L.G., a Person Coming Under the Juvenile Court Law. The People v. L.G.**

There are no arguable issues which require further briefing. The orders appealed from are affirmed. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Division Five

**A103203 -- In re Ashley M., a Person Coming Under the Juvenile Court Law. San Mateo County Human Services Agency v. Ronnie M.**

The disposition order of June 10, 2003, as ordered modified in our opinion in case no. A104054, is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

Thursday, February 19, 2004

Division One

**A101613 -- Friends of Open Spaces, Ridges and Trails et al. v. City of Lafayette; Joel Hynek et al., R.P.I.**

The judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Not for Publication.)

**A101716 -- The Regents of the University of California v. The City and County of San Francisco et al.**

By the Court: The written opinion which was filed on January 22, 2004, has now been certified for publication pursuant to rule 976(b) of the California Rules of Court, and it is ordered published in the Official reports. The petition for rehearing is denied. Marchiano, P.J.

Division Two

**A101335 -- People v. Thomas Earl Clark.**

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

**A100523 -- In re J.C. et al., Persons Coming Under the Juvenile Court Law. Alameda County Social Services Agency v. Jessica M. et al.; J.C. et al.**

The order is affirmed. Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

**A100700 -- Lorraine Nash v. EMC Mortgage Corporation.**

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

**A100185 -- The People v. Robert Lee Smyth.**

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Thursday, February 19, 2004 (continued)

Division Three

**A103682 -- In re Lakeshia B., a Person Coming Under the Juvenile Court Law. Marin County Department of Social Services v. Lakeshia B.**

The July 1, 2003 order of dismissal is reversed. The matter is remanded to the juvenile court to conduct further proceedings in compliance with section 391 of the Welfare and Institutions Code and the California Rules of Court, rule 1466(d). In light of the parties' stipulation for the immediate issuance of a remittitur, the Clerk of this Court is directed to issue a remittitur immediately upon the filing of this opinion. (Cal. Rules of Court, rule 26(c)(1).) All parties shall bear their own costs on appeal. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

**MINUTES**  
COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

DIVISION FIVE

Thursday, February 19, 2004

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J.; Stevens, J.; Simons, J.; Gemello, J.; and Richard H. Sandvik, Deputy Clerk.

A10172     Richard L. Roberts, et al.

8

v.

Metalclad Insulation Corporation

Cause called and argued by Katherine Yao Wang, counsel for appellant, and by Camille K. Fong, counsel for respondent. Cause ordered submitted.

A10190     Lonny Fوسفeld

8

v.

Vladimir Pokhlebaev, et al.

Cause called and argued by Daniel L. Feder, counsel for appellant, and by Monte S. Travis, counsel for respondent. Cause ordered submitted.

A10260     Francisco Foods, Inc.

9

v.

Amco Insurance Company, et al.

Cause called and argued by William F. Flahavan, counsel for appellant, and by G. Edward Rudloff, counsel for respondent. Cause ordered submitted.

A10262     Sharon C. Pickens, et al.

6

v.

Blockbuster, Inc.

Cause called and argued by Richard L. Perez, counsel for appellant, and by Robert C. Walters, counsel for respondent. Cause ordered submitted.

A09909     The People

5

v.

William Edward Kilday

Cause called and argued by Donald T. Bergerson, counsel for appellant, and by Michele Swanson, counsel for respondent. Cause ordered submitted.

A10197 The People

0

v.

Benito Uribe Rivera

Cause called and argued by Kathleen Aberegg, counsel for appellant, arguing via teleconference and by Matthew P. Boyle, counsel for respondent. Cause ordered submitted.

A10239 Pacific Lumber Company, et al.

9

v.

California State Water Resources Control Board

Cause called and argued by Edgar B. Washgurn, counsel for appellant, and by Nicholas C. Stern and Francis A. Shaw Bacik, counsel for respondent. Cause ordered submitted.

Court is adjourned at 11:26 a.m.

Friday, February 20, 2004

Division One

**A103038 -- Willie Gamble v. David Mark Fogel.**

The judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

**A102997 -- In re Damonte W., a Person Coming Under the Juvenile Court Law. Alameda County Social Services Agency v. Donell W.; Arzalia S.**

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Two

**A101347 -- The People v. Felipe Jesus Holian.**

By the Court: The petition for rehearing is denied. Kline, P.J.

**A103295 -- In re Ronald J., a Person Coming Under the Juvenile Court Law. Sonoma County Social Services Dept. v. Darla R.**

By the Court: The appeal is dismissed. (*In re Sade C.* (1996) 13 Cal.4th 952, 994.) Kline, P.J.

**A103787 -- The People v. Eliazar Navarrete-Vargas.**

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

**A101593 -- Patricia Lean-Stewart v. William Rolff, et al.**

By the Court: Since this court's January 23, 2004 opinion does not meet the standard for publication as set forth in rule 976(b) of the California rules of Court, the request for publication is denied. Pursuant to rule 978(a) of the California rules of Court, the Clerk is directed to forward to the Clerk of the Supreme Court the request for publication, the opinion, and a copy of this order. The petition for rehearing is denied. Haerle, Acting P.J.

Friday, February 20, 2004 (continued)

Division Three

**A101336 -- The People v. Joshua Jesus Jimenez.**

The appeal is dismissed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

**A099550 -- Robert Lane v. Rolls-Royce Engine Services-Oakland Inc., et al.**

The judgment is affirmed. Respondents shall recover their costs on appeal. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

**A100954 -- Maurice and Lela Smith v. City of Daly City.**

The judgment is affirmed. Pollak, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

Division Four

**A103627 -- The People v. Clarence Courtney.**

The judgment is affirmed. Kay, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

**A102764 -- Foster Farms Dairy v. Richard W. Lindsey.**

The judgment is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

**A103055 -- McKesson HBOC, Inc. The Superior Court of San Francisco County; The State of Oregon, By and Through the Oregon Public Employees Retirement Board et al., R.P.I.**

The order to show cause is discharged and the petition for writ of mandate or prohibition is denied. Merrill Lynch shall recover its costs. (Cal. Rules Court, rule 56.4.) Kay, P.J. We Concur: Reardon, J., Sepulveda, J. (Certified for Publication.)

Friday, February 20, 2004 (continued)

Division Four

**A102301 -- The People v. Jose Antonio Monzon.**

The judgment is affirmed. Rivera, J. We Concur: Kay, P.J., Sepulveda, J.  
(Not for Publication.)

Division Five

**A101646 -- Lisa Hernandez v. Philip R. Weltin.**

The judgment is affirmed. Stevens, J. We Concur: Jones, P.J., Gemello, J.  
(Not for Publication.)

**MINUTES**  
COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

DIVISION FIVE

Friday, February 20, 2004

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J.; Simons, J.; Gemello, J.; and Richard H. Sandvik, Deputy Clerk.

A10321     John Foster Cruikshank III

5

v.

City of Sausalito, et al.

Cause called and argued by John F. Cruikshank, appearing in pro per, and by Thomas F. Bertrand, counsel for respondent. Cause ordered submitted.

A09939     The People

4

v.

Michael Earl Scott

Cause called and argued by Irene Kiebert, counsel for appellant, and by Allan Yannow, counsel for respondent. Cause ordered submitted.

A10175     K.M.

4

v.

E.G.

Cause called and argued by Jill Hersh, counsel for appellant, and by Diana E. Richmond, counsel for respondent. Cause ordered submitted.

Court is adjourned at 10:56 a.m.

Monday, February 23, 2004

Division One

**A102523 -- The People v. Stephen Paul Rougeau.**

We are convinced the trial court did not abuse its discretion by refusing to dismiss or set aside the robbery conviction and treating appellant as a second-strike defendant. (*People v. Ortega, Supra*, 84 Cal.App.4th 659, 666.) Accordingly, the judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

**A101449 -- William Staley, et al. v. Lee Howard, et al.**

By the Court: The petition for rehearing is denied. Marchiano, P.J.

Division Three

**A105179 -- Elizabeth Ann Atkinson v. The Superior Court of San Francisco County; Patrick Stack, R.P.I.**

By the Court: On February 20, 2004, this court received a "Petition for Rehearing" from real party in interest Patrick Stack. In this court's opinion filed on February 5, 2004, we made our decision final immediately pursuant to California Rules of Court, rule 24(b)(3). Because this court lacks jurisdiction to grant rehearing or modify its decision after the decision is final in this court (Cal. Rules of Court, rule 24(c), 25(a)), the petition for rehearing is denied. McGuinness, P.J.

Division Four

**A100951 -- Sandra J. Patterson et al. v. Chevron U.S.A., Inc.**

**A101214 -- Sandra J. Patterson et al. v. Unocal Corporation.**

The judgment for Chevron (A100951) and the judgment for Unocal (A101214) are reversed. Kay, P.J. We Concur: Reardon, J., Rivera, J. (Not for Publication.)

Monday, February 23, 2004 (continued)

Division Five

**A101812 -- The People v. Michael Charles Cook.**

The judgment is affirmed in part and vacated in part and remanded with instructions to correct the abstract of judgment to assess restitution and parole revocation fines in a manner consistent with section 1202.45. Gemello, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

**MINUTES**  
COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

DIVISION FIVE

February 23, 2004

Court convened at 2:00 p.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J.; Simons, J., Gemello J., and Mary P. Quilez, Deputy Clerk.

A098094      The People

v.

Franklin Sowl

Cause called and argued by Victornia Hagen Stafford, counsel for appellant, and by Bridget Billeter, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

Court adjourned at 2:40 p.m.

Tuesday, February 24, 2004

Division One

**A101294 -- Jonathan Frieman et al. v. San Rafael Rock Quarry, Inc.**

The order denying class certification is affirmed. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Certified for Publication.)

**A102515 -- The People v. Karen Marie Lewis.**

The trial court is directed to amend the minute order and abstract of judgment to delete the order for reimbursement of indigent defense fees and reduce the amount of the drug program fee from \$1,200 to \$150. The court is further ordered to forward the amended abstract of judgment to the Department of Corrections. In all other respects the judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

Division Three

**A093927 -- The People v. Darrell Tyjuan Allen.**

The Court: The petition for rehearing is denied. McGuiness, P.J.

Division Four

**A102002 -- In re R.A., a Person Coming Under the Juvenile Court Law. The People v. R.A.**

The dispositional order is modified to reflect that the maximum period of confinement at juvenile hall shall be no more than one year and six months. As so modified, the order is affirmed. Kay, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

**A101842 -- Coral Construction, Inc. v. City and County of San Francisco et al.**

The judgment is reversed and the cause is remanded for further proceedings. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Certified for Publication.)

Tuesday, February 24, 2004 (continued)

**A103361 -- In re C.H., a Person Coming Under the Juvenile Court Law. The People v. C.H.**

The undefined “standard” conditions of probation are stricken and the matter remanded to the juvenile court for further specification of probation conditions. The court’s orders are otherwise affirmed. Sepulveda, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION FOUR  
Tuesday, February 24, 2004

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco, California. Present: Kay, P.J., Sepulveda, J. and Rivera, J.; Pamela Aguilar, Deputy Clerk; CHP Officer Anthony Tam, Bailiff.

A102968      Frederick Feied  
                 v.  
                 University of California Regents et al.  
Cause called. Andrew Shalaby argued for appellant Feied. Eric Behrens and Julia Je argued for respondents. Cause submitted.

A102863      Tall Club of Silicon Valley  
                 v.  
                 Alaskan Airlines et al.  
Cause called. Thomas A. Cohen argued for appellant Tall Club. Kristin Winter argued for respondents. Cause submitted.

At this point, the court reconstituted itself to include Kay, P.J., Reardon, J. and Sepulveda, J.

A103129      Linda Pettye et al.  
                 v.  
                 City and County of San Francisco et al.  
Cause called. Wayne Snodgrass argued for appellants CCSF. Oren Sellstrom argued for respondents. Cause submitted.

At this point, the court reconstituted itself to include Reardon, Acting P.J., Sepulveda, J. and Rivera, J.

A100422      People  
                 v.  
                 Malachi Mancha  
Cause called. Ozro Childs argued for appellant Mancha. Deputy Attorney General George Hindall III argued for appellant respondent. Cause submitted.

The court recessed at 11:27 a.m.

MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION FOUR

Tuesday, February 24, 2004

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Kay, P.J., Reardon, J., and Rivera, J.; Channing Hoo, Deputy Clerk; CHP Tony Tam, Bailiff.

A103019     In re Paul M., a minor.  
              People  
              v.  
              Paul M.  
Cause called. Frank Moore argued for appellant Paul M.. Martin S. Kay argued for respondent. Cause submitted.

A098176     People  
              v.  
              Ronnie Earl Seymour  
Cause called. Randi Covin argued for appellant Seymour. Aileen Bunney argued for respondent. Cause submitted.

The Court adjourned at 2:24 p.m.

Wednesday, February 25, 2004

Division One

**A102159 -- The People v. Sharon Elizabeth Frochen.**

The judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

**A102697 -- In re the Marriage of Virginia McLeod and Rutilio Escobar.**

The order filed April 8, 2003, denying the motion under Family Code section 2556 is affirmed. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Not for Publication.)

**A101244 -- Harry K. Vernon v. State of California et al.**

Appellant's first amended complaint fails to properly allege that the State is his employer or may be liable to him as an aider and abettor under the FEHA. We also conclude that there is no reasonable possibility the pleading defect can be cured by amendment, and thus the trial court did not abuse its discretion by sustaining the demurrer without leave to amend. (See *Kern v. City of Rochester* (2d Cir. 1996) 93 F.3d 38, 47.) The sixth cause of action for declaratory relief fails for lack of any actual, justifiable controversy between the parties. (See *City of Cotati v. Cashman* (2002) 29 Cal.4th 69, 79-80; *Jones v. Daly* (1981) 122 Cal.App.3d 500, 511.) Accordingly, the judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Certified for Publication.)

Wednesday, February 25, 2004 (continued)

Division Two

**A102411 -- The People v. Atias Ginnett.**

The judgment is affirmed. Ruvolo, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

**A100475 -- The People v. Joshua E. Patton.**

The trial court is directed to amend the abstract of judgment to reflect an aggregate term of state prison imposed of seven years four months, and that appellant is entitled to 255 days (171 days of actual time and served and 84 days of good conduct) of credit for prejudgment time served. Otherwise, the judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

**A100642 -- In re Joseph T., a Person Coming Under the Juvenile Court Law. The People v. Joseph T.**

The judgment is affirmed. Ruvolo, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

Division Three

**A101094 -- The People v. Orlando Jose Cuadra.**

The judgment and sentence imposed are affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

Thursday, February 26, 2004

Division One

**A102526 -- In re Austin H., a Person Coming Under the Juvenile Court Law. Solano County Health and Social Services Department v. Meegan H.**

The order terminating parental rights is affirmed. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

**A100890 -- In re Carisa H., et al., Persons Coming Under the Juvenile Court Law. Children and Family Services Agency v. Darryl H.**

Here, an order issued subsequent to this appeal vacated the dependency and dismissed the petition. Thus, the jurisdictional and dispositional findings which appellant has challenged in this appeal no longer can adversely affect him. We cannot grant appellant any effectual relief, and none of the claimed errors will continue to affect the action, which has been concluded. (*Renee S. v. Superior Court* (1999) 76 Cal.App.4th 187, 192-193; *In re Michelle M., supra*, 8 Cal.App.4th 326, 329.) Accordingly, the appeal is dismissed as moot. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Two

**A101924 -- In re Jennifer B., a Person Coming Under the Juvenile Court Law. The People v. Jennifer B.**

The order appealed from is affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

**A100718 -- In re the Marriage of Susan R. Crosby and Jack F. Grooms.**

The order is affirmed. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Certified for Publication.)

Thursday, February 26, 2004 (continued)

Division Three

**A101658 -- County of Alameda v. Harvey G. Ottovich, et al.**

The appeal is dismissed. The County shall recover costs on appeal.  
Parrilli, J. We Concur: McGuinness, P.J., Pollak, J. (Not for Publication.)

**A100658 -- The People v. Richard Ross Calkins.**

The judgment is affirmed. Parrilli, J. We Concur: McGuinness, P.J.,  
Corrigan, J. (Not for Publication.)

**A097549 -- Ashlyn Kuiper, a Minor, etc., et al. v. Dublin Unified School District et al.**

The judgment is affirmed. Corrigan, J. We Concur: McGuinness, P.J.,  
Parrilli, J. (Not for Publication.)

**A100378 -- Estate of Carl J. Smith, Jr., Deceased. Juanita Smith Papillon v. Rhonda Smith et al.**

The order of the trial court is affirmed. Corrigan, J. We Concur:  
McGuinness, P.J., Parrilli, J. (Not for Publication.)

Division Four

**A102773 -- Citizens for Better Streets et al. v. Board of Supervisors of The City and County of San Francisco et al.**

The order of the trial court denying plaintiff's motion for a preliminary injunction is affirmed. Sepulveda, J. I Concur: Rivera, J. (See dissenting opinion by Kay, P.J.) (Not for Publication.)

Friday, February 27, 2004

Division One

**A102691 -- The People v. Eddie Dean Long.**

The clerk of the superior court is directed to correct the abstract of judgment by striking the word “self” from the description of the crime and to forward the corrected abstract to the Department of Corrections. In all other respects, the judgment is affirmed. Marchiano, P.J. We Concur: Stein, J., Margulies, J. (Not for Publication.)

Division Two

**A101536 -- The People v. Lamont Davon Smith.**

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

**A099621 -- The People v. Clarence Spears.**

The judgment is affirmed. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

Division Three

**A099587 -- Mary Anita Durr v. Robert Spencer.**

The judgment is affirmed. Respondent shall recover his costs on appeal. Parrilli, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

**A098636 -- The People v. Jermaine T. Hill.**

The judgment is affirmed. McGuinness, P.J. We Concur: Corrigan, J., Pollak, J. (Not for Publication.)

**A102014 -- In re K.M., a Person Coming Under the Juvenile Court Law. The People v. K.M.**

The order of the juvenile court committing K.M. to CYA is affirmed. Pollak, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

Friday, February 27, 2004 (continued)

**A100947 -- Eduardo Manzanarez, et al. v. Robert Low, et al.**

The judgment is affirmed. Appellant Manzanarez shall pay respondents' costs on appeal. McGuiness, P.J. We Concur: Corrigan, J., Pollak, J. (Not for Publication.)

**A100584 -- The People v. Mebrahtu Tsehai.**

The abstract of judgment is modified to reflect a 2-year concurrent term on the conviction for cocaine possession. As so modified, the judgment is affirmed. Parrilli, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

**A098701 -- The People v. Kurt Whittenburg**

**A102993 -- In re Kurt Whittenburg, on Habeas Corpus.**

The petition for writ of habeas corpus is denied. The judgment on appeal is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Pollak, J. (Not for Publication.)

Division Four

**A100489 -- The People v. Dennis Wayne Brewer.**

The judgment is affirmed. Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

**A103019 -- In re Paul M., a Person Coming Under the Juvenile Court Law. The People v. Paul M.**

The judgment is affirmed. Reardon, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

**A100422 -- The People v. Malachi Mancha.**

**A100476 -- The People v. Tommy G. Salazar.**

**A100477 -- The People v. Bruce Nelson Large.**

The judgments are affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

Friday, February 27, 2004 (continued)

**A102863 -- Tall Club of Silicon Valley v. Alaska Airlines et al.**

The judgment is affirmed. Sepulveda, J. We Concur: Kay, P.J., Rivera, J.  
(Not for Publication.)

Division Five

**A100273 -- Richard Andrews v. Nicholas Bachko Company and First American Bulk Carrier Corporation.**

The judgment is reversed and remanded with directions to reduce the amount of the jury's award of damages by the percentage by which the jury found Andrews contributorily negligent. Parties to bear their own costs. In all other respects the judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J.  
(Not for Publication.)

**A102996 -- In re Shawn G., a Person Coming Under the Juvenile Court Law. The People v. Shawn G.**

The disposition order is affirmed. Simons, J. We Concur: Stevens, Acting P.J., Gemello, J. (Not for Publication.)

**A104381 -- The People v. Trevor Robert McCall.**

The judgment is affirmed. Stevens, Acting P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)